

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

No. 12-733V

Filed: January 29, 2013

PHILIP SAPIENZA and
PAMELA SAPIENZA,
parents and next friends of
ANGELINA SAPIENZA,

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

*
*
*
*
*
*
*
*
*
*
*
*
*
*

Ruling on Entitlement; Conceded;
MMR; Encephalitis; Table Injury

RULING ON ENTITLEMENT¹

Vowell, Special Master:

On October 26, 2012, Philip and Pamela Sapienza ["petitioners"] filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² [the "Vaccine Act" or "Program"], on behalf of their minor daughter, Angelina Sapienza ["Angelina"]. The petition alleges that Angelina suffered an "acute encephalopathy and/or encephalitis and the onset of chronic encephalopathy/seizure disorder" after receiving the measles, mumps, and rubella ["MMR"] vaccine on January 15, 2010. Petition at 1. Alternatively, petitioners allege that the combination of the MMR, diphtheria, tetanus, and pertussis ["DTaP"], varicella, and polio vaccines Angelina received on January 15, 2010, was the cause-in-fact of her "ongoing" condition. *Id.*

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post this ruling on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioners have 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

On January 24, 2013, respondent filed her Rule 4(c) report ["Respondent's Report"], in which she concedes that petitioners are entitled to compensation in this case. Respondent's Report at 2. Specifically, respondent submits that petitioners "are entitled to a vaccine award because the medical records demonstrate that [Angelina] suffered from an encephalopathy within five (5) to fifteen (15) days of receiving an MMR vaccine as defined in the Vaccine Injury Table, 42 C.F.R. §§ 100.3(a)(III)(B) and 100.3(b)(2)." *Id.* She adds that "there is not a preponderance of evidence that [Angelina's] encephalopathy was due to factors unrelated to the MMR vaccine." *Id.*

In view of respondent's concession and the evidence before me, I find entitlement to compensation based on a Vaccine Table injury. 42 C.F.R. § 100.3(a)(III)(B). A separate damages order will issue.

IT IS SO ORDERED.

s/ Denise K. Vowell
Denise K. Vowell
Special Master